

USAWC STRATEGY RESEARCH PROJECT

THE RULE OF LAW IN PEACE KEEPING OPERATIONS

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## ABSTRACT

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The necessity for successful stabilization as the bridge to peacekeeping is paramount in our efforts to assist in nation building during post-war or post-conflict periods. Without laws and judicial systems there can be only limited progress towards the successful rebuilding of a region or nation in the aftermath of conflict. A country cannot successfully rebuild without the foundation of law and order. Stabilization of a region or country provides the foundation from which future peace operations can be launched. Using the Balkan model to evaluate success and failure in our current policies and doctrine will eventually provide us with instruments for training and operations in other regional conflicts. This paper will outline the importance of planning for establishment of the rule of law and a judicial framework as the fundamental step in the evolution of the peace process. It will also discuss the training gaps in current policy that create confusion and disjointed efforts among forces assigned to operate in unstable environments as Peacekeepers.



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## THE RULE OF LAW IN PEACE KEEPING OPERATIONS

The first step to an effective international response is to recognize the problem. Informal extremist power structures built around state security and intelligence services, para-military elements, and organized crime must be dismantled. This objective should not be confused with a campaign against organized crime, corruption, and smuggling in a general sense. These will always exist in the Balkans, as indeed they do in virtually every society. The purpose must be to emasculate rogue power structures. To accomplish this, a comprehensive approach is needed to deprive them of their political resources: a capacity for political violence and illicit sources of income. Ultimately, the antidote to this challenge is to institutionalize the rule of law, a process that will require a prolonged period of partnership between reformed local institutions and the international community.

—Amb Paddy Ashdown  
Office of the High Rep in BiH  
April 2002

### PEACE OPERATIONS: AN OVERVIEW

Peacekeeping has inadvertently become one of the Army's primary missions. In the past 10 years the most extensive military intervention and deployment has been to areas like Haiti, Somalia, Bosnia, Kosovo, Afghanistan, and Iraq. All of which were, comparatively speaking, short duration combat experiences and long duration follow-on peace operations. Peace operations are characterized by separation of belligerents, promotion of peace, and providing freedom of movement for a nation's populace, as well as international, diplomatic, and relief agencies.

Interestingly, with this new emphasis on military support to peace operations or peace keeping, there also exists a great deal of ambiguity in definition, doctrine and strategy regarding peacekeeping.

Any discussion of peacekeeping is complicated by the fact that there is no common definition of the term; indeed, this may be one of the causes of the failure in Peacekeeping operations. Nowhere in the articles of the Charter of the United Nations is the word used. It has been applied by journalists, diplomats, academics, and others to describe a wide variety of situations.<sup>1</sup>

These terms are incorrectly viewed as synonymous and often used interchangeably. This practice has led to unclear vision and fragmented focus for military commanders and units developing strategic goals and mission objectives. In an effort to standardize doctrinal guidelines and terms of reference NATO developed a standardization of terms and the US published Joint Publication 3-07.3. Joint Publication 3-07.3 categorizes the terms as "US", "United Nations" and "NATO" acceptable definitions. The definitions are as follows:

Peace- operations- Is a broad term that encompasses peacekeeping and peace enforcement operations conducted in support of diplomatic efforts to establish and maintain peace.

Peace- enforcement- Is the application of military force or threat of its use, normally pursuant to international authorization, to compel compliance with resolutions or sanctions designed to maintain or restore peace and order.

Peace-keeping- Military operations undertaken with the consent of all major parties to a dispute, designed to monitor and facilitate implementation of an agreement and support diplomatic efforts to reach a long term political settlement.

Peace- making-Covers the diplomatic activities conducted after the commencement of a conflict aimed at establishing a cease fire or rapid settlement.

Peace- building-Post conflict actions predominately diplomatic and economic, that strengthens and rebuilds governmental infrastructure and institutions in order to avoid a relapse into conflict .

Peace building missions, like others in the subset of peace operations, echo the roles and responsibilities required of many domestic law enforcement agencies. Establishing the rule of law is paramount in the effort to stabilize a country or region especially following armed conflict. Early establishment promotes a functioning economy, fair political systems, public confidence in the police and courts, and overall development of a civil society. The military has come to appreciate that often times soldiers must be prepared to assume police duties until a regular police unit can be established. This paper will focus on early establishment of the rule of law and military roles in peace operations, as they relate to Bosnia Herzegovina during the period 1995-2002.

## **THE RULE OF LAW**

The rule of law exists beyond simple law enforcement practices. The term encompasses the scope of principles included in justice and basic human rights. Safeguarding these justices and promoting reforms necessary to re-establish a society in the aftermath of conflict are the catalysts for transitioning to legitimate government and a stable environment. Theory would suggest that police reform is at the foundation of restoring public trust and confidence in the judicial system.

Transnational, regional and global norms, laws and standards of human rights are playing an increasing role in transnational and post conflict societies. The emergence of international regimes, tribunals, and mixed courts is clearly having a significant impact upon transitional peace building. This appears to conform to

the growing political consensus that some form of justice and accountability are integral to- and not necessarily in tension with- sustainable peace and stability.<sup>2</sup>

Domestic culture depends on the organization and regulation brought on by a legitimate governing body and judicial system. When these conditions are absent the environment is susceptible to a host of illegal activities. These activities, when left unchecked promote the regional instability found in a post conflict society.

Democracy involves many norms and values; above all, the security of the individual against arbitrary arrest, torture, and extra-judicial execution are fundamental. For a democracy to have meaning, these principles must have meaning. The rule of law is integral to a successful democracy.... Without strong institutions, judicial, political, economic, cultural, states cannot be rebuilt, and outside actors have no legitimate internal partners to collaborate with. Weak societies need strong and legitimate institutions to rebuild trust, confidence, and to invest in a more stable future. Weak and divided societies cannot produce strong and legitimate governments. International organizations have helped societies in building their own institutions, or by replacing those institutions with a trusteeship until political environment is safe enough, and domestic civic culture is mature enough, to engage in internal competition for power and government.<sup>3</sup>

The international community, and recently the military, is frequently called on to participate in a combination of peace operations to help provide a foundation for sustainable peace following conflict. Coercively maintaining security to avert relapse into conflict, as is the case for the military in peace enforcement, has proven to be largely insufficient in addressing the stabilization of a country or region. Incorporating aspects of peace-building are essential for long lasting peace. No single organization is more critical to these efforts than those charged with restoring the rule of law.

In Bosnia Herzegovina (BiH) the primary organizations charged with restoration of the rule of law through establishment of a safe and secure environment were the military (NATO) and the International Police Task Force. These international actors, although united in objective, were divided organizationally with the IPTF under the United Nations and the military under NATO. The IPTF commissioner was directed to consult the Office of the High representative with no direct link to NATO.

#### THE MILITARY IFOR/SFOR MANDATES

SFOR Mandate is to promote a safe and secure environment.

In December 1995, a NATO led implementation force (IFOR) was deployed to Bosnia to enforce the military aspects of the Bosnia peace agreement recently initialed by the Presidents of Serbia-Montenegro, Croatia, and Bosnia-Herzegovina (the Dayton Peace Accords). In a nationally televised address President Clinton justified dispatching U.S troops as part IFOR by saying U.S.

engagement was needed to stop the suffering caused by the war; to bring stability in Europe, a region vital to U.S interests; and to maintain U.S leadership in NATO.<sup>4</sup>

The Dayton Peace Accords and the General Forces Agreement formed the basis for the Clinton administrations original policy in Bosnia Hercegovina. Focusing on a section calling for a combination of military peace enforcement and civilian led nation building, a US led multinational force was built to serve as a buffer to help Bosnian Serbs and Bosnian Muslims stay put in their respective sides of the zone of separation (also outlined in Dayton) as well as stabilize the balance of military power on the ground. Under this plan the Clinton administration also announced that US troops would depart the country within a year leaving behind entities with defensible and sustainable borders. IFOR was successful in their support and enforcement of the military aspects of the Dayton Accords and provided limited support to civilian NGOs, Humanitarian assistance, as well as assisted with elections supervised by OSCE.

On November 15, 1996, President Clinton said that the administration had agreed in principle to send U.S troops to Bosnia as part of a new NATO led peacekeeping force for Bosnia. Clinton said the force would remain there until June 1998. He added that a review would be conducted every six months to determine whether stability could be maintained with fewer forces. President Clinton said that he expected the force would be reduced by half by the end of 1997. The mission of this Stabilization Force (SFOR) would be to prevent a resumption of hostilities so that economic reconstruction and political reconciliation can accelerate .<sup>5</sup>

#### IPTF MANDATE

In Peace operations international police rarely have the mandate to carry out law enforcement. Usually unarmed, they are supposed to monitor and supervise the indigenous law enforcement agencies. This might be extended to include training and assistance in various forms. Only in exceptional cases have international police been authorized to enforce laws. This is often misunderstood by the public and contributed to a negative image when police could not prevent crimes such as the transfer of the Sarajevo suburbs from Serb to Bosniac-Muslim control.<sup>6</sup>

Dayton identified the void in BiH in terms rule of law and domestic law enforcement and committed to the creation of an International Police Task Force designed to monitor the re-its establishment in all communities. Under the UN Mission in BiH the primary role of the IPTF monitors was to oversee professionalization of the Bosnian Police Forces. Monitors would ensure compliance of the “civilian” law related mandates under Dayton. The IPTF mandate included the following as their guiding principles:

- Monitor and inspect judicial and law enforcement activities, including conducting joint patrols with local police forces
- Advise and train law enforcement personnel Analyze the public security threat and offer advice to government authorities on how to organize their police forces most effectively.
- Facilitate law enforcement improvement and respond to requests of the parties, to the extent possible.

The rules of engagement for the IPTF included use of force only in self defense. They were an unarmed force of monitors that relied on the local police as well as IFOR/SFOR forces for their protection. The IPTF also faced the reality that the public security institution was tarnished by involvement in the recent ethnic conflict. In most cases the ethnically based police and judiciary offices they were assigned to were either directly or indirectly involved in the conflicts both pre and post hostility. They lacked a common set of internationally acceptable rules with the exception of human rights. Their presence was widely dispersed and many of them found themselves helpless in the face of ethnically based conflict. News and media portrayed them as unwilling to assist in times of trouble.

### **The Enforcement Capabilities Gap**

The security gap was highlighted in Bosnia Herzegovina, because the military and the police components of the peace operations were handled by two different agencies. (NATO for military and the UN for the police). They still are but at least cooperation between the two has improved. Clearly in an unstable situation it is the military's duty to fill the security gaps from the top down," not expect the police to do this the other way around. That the military did not understand this at first was among the less than satisfactory aspects of NATO<sup>7</sup>.

SFOR and the UN found themselves caught in a capabilities gap for response to many aspects of public disorder. SFOR was reluctant to respond to public disorder and civil disturbance as it distorted their interpretation of the military mandate. It could provide area security and deter lawless behavior but did not consider itself trained to control riots or perform law enforcement. Morris Janowitz notes in his 1960 study, *The Professional Soldier*, "The military tends to think of police activities as less prestigious and less honorable tasks," and therefore has always been reluctant to become involved in law enforcement issues. Within the military establishment, military police have a lower status than airborne or combat troops. This regimented cultural aversion to participating in "police related" activities significantly restricts capabilities on the ground.

The IPTF was neither armed nor equipped to deal with these armed confrontations in anything more than an advisory capacity. Their training and capabilities varied among the contributing nations. Many monitors from the smaller contributing nations arrived on station with only a set of uniforms. Six months into the mission in Bosnia, General Wesley Clark Commander NATO, presented a plan that addressed the “capabilities” gap between the civilian and military responsibilities with regard to basic law and order and created a Multi-national Specialized Unit (MSU) composed of dual police/military personnel

UNARMED	GAP	ARMED
<b>IPTF Assistance</b> Train Educate and Advise Assess Threats Monitor, Inspect, Observe Certify	Maintenance of Public Order Combat Crime and Corruption Facilitate DPRE returns Enforcement of Laws & OHR Directives	<b>SFOR Assistance</b> Annex 1A Compliance Military Secure Environment
Traffic control Accident Investigations Internal Police Discipline Police Training & Education Police Certification Routine Patrols Petty Crime Response	Serious Crime Response Site Security Protection of Special Property VIP Protection Protection of Minority Politicians Counter Corruption Invest Crowd Control Riot Control Counter Terrorism	

Civil Police Responsibility

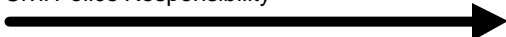


TABLE 1

The Multinational Specialized Unit (MSU) was created in an effort to provide a bridge between the existing civilian and military capabilities. Comprised primarily of Italian Cabieneri, and later Slovenian and Portugese military police soldiers, their charter included all missions in the gray area between the civilian and military mandates listed in Table 1. Primarily tied to civil police responsibilities they would also overlap in the areas of counter-terrorism and riot control with the military. Command and control was retained by the Commander SFOR in Sarajevo regardless of the area the unit was operating in and permission from COMSFOR was required by all Multi-national Division Commanders prior to employment or commitment of MSU forces.

UNMIBiH was concerned with the MSU initiative from the outset. It feared that the creation of this organization would take responsibility for law enforcement away from the local police. Furthermore that IPTF monitors would be in the position of providing advice to local police while the MSU intervened in the same situation. The UN mission also felt that the MSU

should follow the same law enforcement standards as local police as opposed to the military rules of engagement.

Despite the wide range of missions and capabilities described by Gen Clark at inception, the force was never fully utilized to fill this intended gap, due in part to the discussion previously mentioned. During SFOR 9, the Commander of MND-N requested MSU assistance with the murder investigation of a local teenage muslim girl in the city of Zvornik, a primarily Serbian town. The MSU attempted to assist local police with the investigation but was instructed to cease and desist all actions after complaints from the IPTF commissioner that this was not within their purview. The MSU officer completed the investigation covertly during the SFOR 10 rotation but his findings were never published. Additionally during SFOR 10, the MSU was used in MND-N for presence patrols and counter-terrorism activities. Their most extensive activity came during the SFOR sponsored training exercise "Joint Resolve" in which they planned and executed civil disturbance techniques alongside SFOR Military Police, Federation, and Republik of Serpska Special Police Units, during a mock civil disturbance riot control situation. The MSU became a failed attempt at addressing the void left between military and civilian peace implementation. A void better left to one or the other organizations rather than creation of a third entity.

## **IMPLEMENTING STRATEGY AND OBJECTIVES IN BIH**

### **CRITICALITY OF THE RULE OF LAW IN BIH**

The environment in Bosnia from 1995-2000 was changing and evolving regularly as described by a November 2000 report published by the Washington based Institute for Peace. International support and regulation had enabled elections to take place. In November 2000 a tri-party of elected officials represented the three entities. Cooperation between the entities was limited. Even within the Federation Bosniaks and Croats maintained separate but parallel lines of authority. All three parties continue to block efforts to develop central institutions that remained weak and ineffective. Organized crime and other regulated activities that originated during the war continue to corrupt the economy; there has been little development of the central government economic regulatory structures that are necessary to an open free market economy. Potential returnees continue to face security, property, housing, economic and education obstacles. Most notable war criminals were still at large, sheltered by nationalists in the Republik of Serpska and the Serbian Government. Despite these widely publicized conditions US Forces continued to train on military objectives loosely based on the 1996-97 environment.



Throughout most of its recent history, including the Tito regime, the public security apparatus- the judiciary, police force, and penal system-served as a fundamental instrument of state control. Yugoslavia's disintegration into ethnically defined entities during the first half of the 1990s had the further effect of converting many local police organizations into agents of intimidation and brutality against those of different ethnic origins.<sup>8</sup>

Yugoslavia had been a police state controlled by its military and domestic police forces that performed more as para-militaries than law enforcement. These forces were often controlled by political leaders and many crossed legal boundaries on a regular basis. The stabilization process began in Bosnia with a NATO led Implementation Force focused on separating belligerent militaries (Federation, Republic of Srpska and Croatian) and eliminating their ability to fight. The three entity armed forces complied with the policy and restrictions outlined by GFAP under Dayton and enforced by IFOR. NATO lost sight of the underlying trend which was that as militaries disbanded local police forces increased exponentially in both personnel and weaponry. Failure to recognize the exodus of Bosnian and Serbian military personnel into police forces early on led to a new threat in the form of para-military police forces. Accurately addressing the challenges that this para-military police force created additional responsibilities not yet clearly articulated. There was now a void between military and civil mandates to carry out missions under the General Forces Agreement Plan.

While IFOR had successfully separated belligerents during its tenure, no adjustments had been made subsequent to their turn-over to establish new parameters from which a "safe and secure" environment could develop. SFOR forces (specifically MND-N) in 2001 had no mandate to stop many illegal activities that could conceivably influence instability within the region. When the 3<sup>rd</sup> Infantry Division transferred authority of MND-N to the 29<sup>th</sup> ID it was in an environment riddled with ill defined goals at the strategic or operational level. Focusing on elections and gauging the success of the fledgling democracy on their outcome distracted the international community from the destabilizing issues of organized crime and political corruption, bubbling beneath the surface.

Organized crime thrives best where the state is weak and corrupt. Organized crime threatens the stability of strategically important states by instigating corruption and eroding, if not supplanting, legitimate governments. And the profits from organized crime can also be used to bankroll other dangerous groups, including terrorists.<sup>9</sup>

### **Military policy Implementation and Strategic Goals**

In December 1997 President Clinton refined the support mission to Bosnia again extending the timeline for U.S forces beyond the June 1998 deadline. This time he did not set a

new departure deadline, instead he stated that SFOR would remain in place until key implementation milestones had been achieved. These milestones centered around providing a safe and secure environment in the form of monitoring Displaced Civilian and Refugee returns, Judicial Reform, and limited support to nation building efforts. The objectives that were identified by the earlier support to implementation of the Dayton agreement had become less clear over time. The six-month review called for by the president would inadvertently become the ad hoc exit strategy for the U.S forces. Using loosely defined military objectives successful accomplishment of the mission was subjectively declared and commanders and staffs submitted subsequent SFOR rotations could meet requirements of the safe and secure environment with fewer soldiers. Each SFOR rotation would continue to reduce the force structure until a minimal force was left. The focus became troop reduction as opposed to troop to task mission requirements. Re-missioning was based on force protection for US forces. The increasing evidence of organized crime, corruption, and illegal cross border activities was selectively ignored and placed outside the limitations set by Dayton and the GFAP.

#### **PREPARATION AND TRAINING REALITIES: SFOR 10**

Much of what is done at the highest levels of military strategy involves converting political objectives into military objectives, crafting a plan to achieve them, and designing a force structure that can achieve implement the plan with in acceptable levels of risk. All this becomes much easier if the objectives and the constraints of politically acceptable risks, are made clear at the outset. The officer corps as a whole is concerned that peace operations are often done with vague mandates, derived from compromises and then presented to the military to interpret and execute.<sup>10</sup>

In February 2000, the 29<sup>th</sup> Infantry Division was formally notified they would assume command of Multi-National Division North in Bosnia for the SFOR rotation 10. This allowed approximately 18 months to complete training for the peacekeeping and stabilization mission they would execute from October 2001-April 2002. Translation of the current national policy into clearly stated and understood objectives for the Task Force became of paramount importance. Under the Clinton administration this training and structuring would focus on stabilization and peace enforcement. The staff of the 29<sup>th</sup> ID understood the objectives to be promotion of a safe and secure environment without becoming entangled in ethnic disputes or endangering the lives of MND-N soldiers. This could be accomplished by following the established theater specific training plans already in place for all SFOR rotations.

These missions included:

- Deterring hostilities
- Containing heavy weapons and forces
- Force protection of US and NATO Forces
- Freedom of movement for Bosnian peoples

There was little room for adaptation or refinement of mission objectives. SFOR would continue to provide the military presence of force and be prepared for response to a large-scale crisis or disputes among the ethnic factions. All objectives could be met through judicious use of presence patrols, bilateral negotiation meetings, and compliance enforcement by the Joint Military Commission (JMC), as well as support to Civil Military Construction projects. Discussion with regard to the rule of law was limited to judicial reform and professionalization of police forces at the local level handled by the IPTF.

This training did not match the reality on the ground. Criminals and corruption were swarming in the vacuum left by nationally defined politics, inconsistency in the application of laws, incompetent courts, fragmented judicial, criminal and penal systems. Money continued to pour in from primarily Muslim international donors further fueling animosity between ethnic groups. Many elected officials were elected due to their pre-war positions of authority. Public confidence in the fragile government and related structures was faltering. There was virtually no trust in the capabilities of the judicial and law enforcement communities. With no public trust and confidence there could be no long-term stability. Regardless of these conditions midway through the rotation, Commanders and staff of SFOR 10 in MND-N were asked to review mission requirements and force structure and determine not if, but, where personnel reductions could be made in the NATO Force manning

#### **Mission, Equipment, Time, Terrain, Troops, Civilians and “Politics” (METT-TC-P)**

The political signals sent to the military have been lousy," says an expert on the Army who works for a prominent think tank in Washington, "You have a President who has sent them on these missions but insists they not shed an ounce of blood, which sends the signal that these missions are not very important. You have a Congress that keeps signaling that they will be pulling US troops out of the Balkans, which keeps the Army from establishing a permanent headquarters there. And now, after the Army has finally launched a major reorganization to better cope with these responsibilities, you have President Bush saying peacekeeping is bad and the Army should go back to just focusing on fighting big wars."<sup>11</sup>

This was also an election year for the United States. The political ramblings and debate over the US Military's continued presence in the Balkans became a contentious issue. Then candidate, George W. Bush, highlighted that our military was not intended to be Peace-keepers or nation builders. It remained his contention that if elected, he would bring soldiers home from the Balkans. During this time, President Clinton remained committed to support of the NATO effort to stabilize the region with no drastic changes to the current mission.

Though there has been some political pressure, particularly in the United States, to reduce the force size, or at least, the U.S. contingent, NATO's Supreme Allied Commander and the Chairman of the Joint Chiefs, believe any significant reduction could erode effectiveness and place remaining troops at greater risk.<sup>12</sup>

Following President Bush's election and inauguration in January of 2001 the policy rumblings with regard to the Balkans began to surface again. Force reductions on the SFOR manning document, which had been minimal up to this point, became more drastic. In June 2001, while the 29<sup>th</sup> ID Task Force was conducting the validation training at the Mission Rehearsal Exercise, Fort Polk LA, FORSCOM reduced the troop strength requirement for the rotation by an additional 800 soldiers. Forty five days from execution, the unit was to identify how they intended to accomplish this reduction with no change in mission requirements.

#### **SEPTEMBER 11, 2001**

In the midst of the mobilization process, spanning from June through September of 2001, were the events of September 11<sup>th</sup>. While the defined goals and objectives did not overtly change, most certainly the operational emphasis did. Maintaining a safe and secure environment was now more clearly understood as preservation of the US forces and participation in the Global War on Terrorism. Prior to September 11<sup>th</sup> many viewed the predominantly Orthodox Serbian population as the aggressors during the conflict and the center of hostility against the SFOR presence. Following the attacks of September 11<sup>th</sup> there was a dramatic shift in the operational focus of SFOR activities towards the primarily Muslim population of the Federation.

Intel collection efforts specifically targeted Muslim enclaves long suspected of supporting terrorist activities, as well as force protection at all US Base Camps. SFOR 10 ground and aerial presence patrols searched daily for terrorist training camps and other evidence that US Forces were being targeted leaving little time and effort to focus on the plight of the Bosnian people. US Missions in support of a stabilized BiH in accordance with Dayton were reduced to mine clearing support, reduction in force of the Serb and Federation Military, and the refugee returns process.

### **Civil Implementation: the International Police Task Force**

The military aspects of the Dayton Agreement were implemented well within the first year of the mandate; civilian implementation did not enjoy the same success. In a 2000 assessment of civil implementation of Dayton, public security and illegal activities were listed as having made the least substantial amount of progress of the 10 areas reviewed. This is due in part to the low priority and ad hoc nature with which the international community addressed the reforms needed for the rule of law. Creation of the IPTF as a police monitoring agency proved inadequate to deal with the post conflict situation.

The IPTF was not armed nor empowered to enforce local laws. Because its purpose was to help already established law enforcement agencies maintain public order and assist them in adopting methods of policing consistent with international standards the IPTF could function effectively only with the consent of the Parties. In circumstances where implementation of Dayton ran counter to the interest of one of the Parties, local police either withdrew, or became active protagonists. In such instances IFOR was compelled to become involved. IFOR could conduct operations to deter lawlessness, its forces were not trained or equipped for riot control or law enforcement tasks. There were no effective sanctions available to IPTF to punish non-compliance.<sup>13</sup>

The initial focus from Annex 11 of the Dayton Agreement mandated the IPTF monitor observe and inspect law enforcement activities including those of the judiciary. A year later Security Council resolution 1088 entrusted the IPTF with investigating or assisting with investigations into human rights abuses by law enforcement personnel. The US representative and key negotiator during Dayton was Ambassador Holbrooke. He was uncomfortable from the outset with the levels of compromise needed to reach three party agreement on the accords. He later acknowledged that the composition lacked the robustness and authority necessary to have successfully implemented the outlined civil requirements.

The initial deployment of monitors was painfully slow and lacked the basic logistic base required to begin operations. Most UN monitors also lacked the training skills and background necessary to perform these functions.

The requirements to serve on the first IPTF mission were fluency in English, the ability to drive, and 8 years of experience in policing (as defined in the contributing country) No consideration was given to recruiting personnel with skills essential for tasks other than monitoring (eg. field training officers, police academy administrators, specialists in management or police reform.) During the initial stages of deployment it was not uncommon for IPTF members to fall short of even the basic standards.<sup>14</sup>

This provided a bewildering mix of social, cultural, and religious backgrounds with an even more diverse range of professional and law enforcement skills. At times it appeared the only commonality all monitors shared was the concern of practicing domestic law enforcement in another sovereign country. They were not given any executive power nor were they officially sanctioned by the host country to perform law enforcement. Even as late as September 2001 the professionalism and competency of the IPTF was questionable. Despite the requirement to speak English several of the IPTF monitors in the MND-N region lacked even a fundamental understanding of the language. Rumors and accusations of police monitors participation in illegal trafficking of women and smuggling operations plagued many of the stations. Gender issues within the UN IPTF also surfaced at this time. Female monitors came forward with complaints of discrimination and harassment by colleagues and senior IPTF officials.

#### **ESTABLISHING THE NECESSITY FOR MILITARY INVOLVEMENT IN RULE OF LAW**

In the absence of a civilian agency capable of performing security force training in less than permissive environments, the US military has found itself called upon to perform this function. The Armed forces have done so reluctantly. The services have long resisted police activities, and performed training operations only after it was clear no other agency of government could meet the requirements of the mission.<sup>15</sup>

SFOR Troops in BiH operated effectively as an armed law-enforcement operation. On the ground, SFOR has intervened to assist the IPTF and others when faced with law enforcement emergencies, such as rioting in Brcko in August 1997 and Dvar in April 1998. The military is trained, equipped, and capable of performing a wide range of missions and functions. In its current configuration and capacity it is often the force of choice to provide a suitable environment for a peace process to take hold and grow. It is a well trained, self sustaining organization that is well suited to perform alongside the plethora of international, non-governmental and private organizations during peace-building operations. Despite its qualifications, there exists a cultural aversion in the military to participating in the spectrum of peace operations.

A culture of violence, persistent inter-group tensions, and little or no central control of regular and irregular military forces create a condition in which conflicts can re-escalate very quickly. The presence of an abundance of arms and ammunition among civilians and ex-combatants contributes to this continued instability. Soldiers have to be decommissioned and reintegrated into society, and insurgency groups have to be disarmed. This is very difficult to accomplish by local institutions that are neither firmly in place nor legitimate in the eyes of former warring parties. External actors have a critical role to play in this process.

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Division of the civil and military command and control as well as mission oversight complicated operational relationships by the fact that there were no mechanisms in place for the interaction of SFOR with the IPTF. Based on the organizational separation of these two groups accommodations were made during many of the SFOR rotations. During SFOR 9 and 10 MND-N requested a liaison officer be placed at each of the IPTF regional stations. The Tuzla IPTF Chief would in turn provide a liaison officer directly to the MND N Headquarters at Eagle Base in Tuzla. These positions were not officially sourced by the U.S. or the United Nations but later proved instrumental in establishing positive relationships and clearer definitions of roles and responsibilities for each organization. Beyond the daily assistance each provided, SFOR 10 military police forces were able to broaden the scope of activities conducted during the rotation.

It would be wrong to imagine international police replacing military in peace operations. Both military and police have clearly defined roles.<sup>17</sup> The rule of law as a cooperative focus area continued to be ignored in BiH with the exception of limited operational and training engagements between IPTF, local Police and SFOR Military Police. In MND-N during SFOR-10 this relationship enjoyed some success at the tactical or execution level. The IPTF lacked the training resources and manpower to facilitate many programs on their own and sought NATO support. These forces established a joint training program for Federation and RS K9-special police units as well as coordinated participation in the NATO led Operation Joint Resolve<sup>18</sup>. In the fifth month of the deployment the Tuzla IPTF Commander and the Canton Special Police unit requested assistance from MND-N SFOR in the re-capture of an escaped murderer. After having exhausted their meager capabilities and resources the Chief was eager to test the support resolve from NATO forces. The escapee was armed with an AK-47 and considered dangerous. He fled into the woods and mountains approximately 30 kilometers south of Eagle base and could no longer be tracked on foot as there were unmarked minefields throughout the region. Neither local nor Cantonal police were equipped to continue this search. IPTF contacted MND-N Headquarters with a request for aerial recon support from the military. The initial requests were denied by MND-N on the basis that it would endanger the US pilots. Ultimately this mission was conducted after a communication between the IPTF Commissioner and the Commander SFOR in Sarajevo. The individual was apprehended in the first ever truly "joint" police operation involving local police, UN IPTF, and SFOR.

Despite successes, military forces and the IPTF understood they were loosely interpreting their individual mandates under Dayton. Reluctance to revise or update policies with regard to the changes in the regional environment limited the number and scope of assistance between these agencies.

Policy statements by both Republican and Democratic administrations emphasize the importance of peace operations in reducing instability and limiting conflict. While it is clear that military force cannot solve the underlying problems of instability, it may create the space for diplomatic and economic efforts to prevent or resolve conflict. In many instances within established parameters, peace operations can be seen as efforts to forestall larger regional conflicts.<sup>19</sup>

The role of the US Military in Peace Operations is best described as a moving target. Current operations and requirements in IRAQ are very different from those undertaken in East Timor or the Balkans in earlier stages. It is better defined as a continually evolving process that is adaptive and flexible. In order for forces to maintain a single focus and synchronize efforts, it is critical to establish clear strategic objectives that provide an operational framework.

## **ANALYSIS AND CONCLUSION**

Establishment of the rule of law is essential to achieve long term stability in any nation or region. Police forces and rule of law reform are an integral part of this security and stabilization. Future policy and strategies must accept the rule of law as a critical element of transitioning to a stable post conflict environment and train to that objective. As such, more comprehensive training in Peace Operations is needed for all participants. Strategic ambiguity and political posturing hamper the ability of the military to establish clearly defined objectives. Failure to focus efforts or to continually change focus areas based on the political climate leads to poor performance at the execution level.

If domestic capacities are lacking, external support may be required. External support of transitional processes, by non-governmental and intergovernmental organizations, or through bilateral arrangements, ideally creates the foundations for sustainable progress even after such assistance has ceased. However, such sustained efforts will only work if ownership of the process of capacity building has been transferred to local actors during the transition period.<sup>20</sup>

The United Nations and other international actors continue to rely on the military as the enablers who set the conditions for the host of domestic activities needed in the aftermath of conflict. The reality of the future is that the military will continue to play a key role in Peace Operations. It remains one of the organizations best suited to perform missions throughout the spectrum of Peace Operations, up to and including operations within the "training gap" created in the void between former police agencies and those charged with creating newly reformed law enforcement agencies. This training must be a priority equal to that given to decisive or combat operations. The issues discussed go beyond the superficial training plans and objectives outlined by doctrinal publications. It is the organizational culture of resistance in the



military that must change to accept responsibility of the requirements for establishing the rule of law in a post-conflict society.

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## ENDNOTES

- <sup>1</sup> Jett, Dennis C., *Why Peacekeeping Fails*. St. Martins Press, New York, 1999. page 13
- <sup>2</sup> Newman, Edward and Albrecht Schnabel, *Recovering from Civil Conflict*. Frank Cass Publishing, London England and Portland Oregon. Page 47
- <sup>3</sup> Ibid. Page 1
- <sup>4</sup> Bowman, Steven R. Julie Kim, and Steven Woehrel, *CRS Report for Congress. Bosnia Stabilization Force (SFOR) and U.S. Policy*, updated 1998 Congressional Research Service the Library of Congress.
- <sup>5</sup> Ibid. Page 2
- <sup>6</sup> Schmidl, Erwin A. *Police in Peace Operations*. Informationen Zur Sicherheitspolitik, Landesverteidigungsakademie/ Militarwissenschaftliches Buro, 1998. page.35
- <sup>7</sup> Ibid. page 3
- <sup>8</sup> Oakley Robert B. Michael Dziedzic, and Eliot M. Goldberg, *Policing the New World Disorder: Peace Operations and Public Security*, eds. Policing the New World Disorder: Peace Operations and Public Security. Washington, D.C. (National Defense University Press)1998. page 262
- <sup>9</sup> Pumphrey, Carolyn W. *Transnational Threats: Blending Law Enforcement and Military Strategies*. Strategic Studies Institute, Carlisle PA. 2000. page 26
- <sup>10</sup> Chayes Antonia H and George Raach, *Peace Operations: Developing an American Strategy*. National Defense University Press, Washington D.C. Page 97
- <sup>11</sup> Kitfield, James, *The Peacekeepers*. Government Executive. Washington Mar 2001. Vol 33, Iss. 3; pg 47. Database on line. Available from ProQuest. Accessed 16 October 2003.
- <sup>12</sup> Bowman. Page 3
- <sup>13</sup> Oakley. Page 270
- <sup>14</sup> Oakley. Page 273
- <sup>15</sup> Chayes. Page 121
- <sup>16</sup> Newman. Page 2
- <sup>17</sup> Schmidl. Page.3
- <sup>18</sup> Describe Joint Resolve
- <sup>19</sup> Chayes. Page 5.
- <sup>20</sup> Newman. Page 2



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